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UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20503

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OFFICE OF PETITIONS

In re Application of
Desieur et al

Filed February 24, 2000

Application No. 09/512,035

Attorney Docket No. C-2407

Re: METHOD FOR DESULFURIZING
GASOLINE OR DIESEL FUEL FOR USE
IN AN INTERNAL COMBUSTION
ENGINE

DECISION GRANTING
REQUEST FOR REFUND

This is a decision on the request for refund filed May 9, 2002, requesting that the continued prosecution application (CPA) fee and independent claim fees of \$992.00 filed on January 15, 2002 and applied to application No. 09/512,035 be refunded.

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Section 207.02 of the Manual of Patent Examining Procedure, Eighth Edition (August 2001) reads, in part, as follows:

Under 35 U.S.C. 42(d) and 37 CFR 1.26, the Office may refund (1) a fee paid by mistake (e.g., fee paid when no fee is required), or (2) any fee paid in excess of the amount of fee that is required. See *Ex parte Grady*, 59 USPQ 276, 277 (Comm'r Pat. 1943) (the statutory authorization for the refund of fees under the "by mistake" clause is applicable only to a mistake relating to the fee payment). When an applicant or patentee takes an action "by mistake" (e.g., files an application or maintains a patent in force "by mistake"), the submission of fees required to take that action (e.g., a filing fee submitted with such application or a maintenance fee submitted for such patent) is not a "fee paid by mistake" within the meaning of 35 U.S.C. 42(d) or 37 CFR 1.26(a) and, therefore, provides that a change of purpose after the payment of a fee (as when a party decides to withdraw the filing of a patent application for which the fee was paid) will not entitle the party to a refund of such fee.

A review of application no. 09/512,035 reveals that no CPA has been filed.

Since applicant did not file a CPA on January 15, 2002, applicant is entitled to a refund of the \$75.00 CPA filing fee and the \$252.00 excess claim fees.

Accordingly, the request is granted.